

**To:** Grantham, Nancy[Grantham.Nancy@epa.gov]  
**Cc:** StClair, Christie[StClair.Christie@epa.gov]  
**From:** Ethan Barton  
**Sent:** Mon 1/4/2016 11:00:04 PM  
**Subject:** Re: FW: Gold King Mine investigations

Great, thanks Nancy.

On Mon, Jan 4, 2016 at 5:32 PM, Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)> wrote:

Hi Ethan,

Thanks for your patience. Please answers highlighted in yellow below.

Thanks

Nancy Grantham

**From:** Ethan Barton [<mailto:ethan@dailycallernewsfoundation.org>]  
**Sent:** Wednesday, December 30, 2015 1:56 PM  
**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>  
**Cc:** DuBray, Daniel <[ddubray@usbr.gov](mailto:ddubray@usbr.gov)>; Lagda, Jeffrey <[Lagda.Jeffrey@epa.gov](mailto:Lagda.Jeffrey@epa.gov)>;  
StClair, Christie <[StClair.Christie@epa.gov](mailto:StClair.Christie@epa.gov)>  
**Subject:** Re: FW: Gold King Mine investigations

Great, thank you. I'll reach out to Jeff and Dan.

In regards to question 3, I'd like to mention that Environmental Restoration has never returned any of my phone calls, and that other news articles have stated that the company has relied on their nondisclosure agreement to avoid answer reporters' questions. Given that, could you please expand on your response? Is Environmental Restoration relying on a nonexistent nondisclosure agreement to avoid cooperating with the press?

**As previously stated:**

**The statement of work includes a standard requirement that the contractor shall not publish or otherwise release, distribute, or disclose any work product generated under the contract without obtaining EPA's express advance written approval. This does not require either an NDA or confidentiality agreement be signed by individual employees.**

**We cannot comment on Environmental Restoration's corporate media policies.**

Also, in Dennis Greaney's written testimony from Sept. 9, he mentions that his company was "directed to remove rubble and debris that had caved in over the mine opening," which ultimately caused the spill. Who gave the order to remove the rubble and debris? Have they been held accountable for giving that order?

**From Addendum to EPA Internal Review of Gold King Mine Incident dated December 8, 2015:**

**“Under (EPA On Scene Coordinator (name redacted)’s direction, the team slowly and carefully scraped away loose soil and rubble near the face of the adit with the initial goal of locating the primary blockage.”**

On Wed, Dec 30, 2015 at 12:55 PM, Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)> wrote:

Hi Ethan,

Please see responses to your inquiry in bold below.

Thank you.

Nancy Grantham

**From:** Ethan Barton [<mailto:ethan@dailycallernewsfoundation.org>]  
**Sent:** Monday, December 28, 2015 9:48 AM  
**To:** Press <[Press@epa.gov](mailto:Press@epa.gov)>  
**Subject:** Gold King Mine investigations

Hello,

I have some questions regarding the Gold King Mine incident. My questions are:

1. Why was there no criminal investigation regarding the Gold King Mine spill, especially regarding neglect? Can the public expect one in the near future?

**As we have said previously, the Department of Interior (DOI) and EPA Office of Inspector General (OIG) investigations will help inform how we move forward. We have received the DOI report and are currently awaiting the report on the OIG investigation.**

2. Some have accused the EPA's policies as hypocritical for declining to conduct a criminal investigation into the Gold King Mine spill (for example: <http://www.heritage.org/research/reports/2015/12/agencies-not-coming-clean-about-the-epas-responsibility-for-poisoning-the-animas-river>). Would a private entity have been criminally investigated were it responsible for the Gold King Mine Spill, and if so, why isn't the EPA or Environmental Restoration LLC being criminally investigated?

**See answer to Question #1 above.**

3. I previously asked about nondisclosure agreements used in EPA contracts and was told:

“The statement of work includes a standard requirement that the contractor shall not publish or otherwise release, distribute, or disclose any work product generated under the contract without obtaining EPA’s express advance written approval. This does not require either an NDA or confidentiality agreement be signed by individual employees.”

However, requiring "work product" to remain undisclosed is different from a "nondisclosure agreement." That being the case, why has Environmental Restoration refused to discuss the Gold King Mine spill with the public, citing a nondisclosure agreement with the EPA?

**We would suggest you contact Environmental Restoration directly. As you know, Dennis Greaney, the President and Managing Partner of Environmental Restoration, testified at a Congressional Hearing regarding the Gold King Mine matter on September 9, 2015.**

Following up on question three, is Environmental Restoration using the same argument when facing inquiries from investigators with the Bureau of Reclamation's report, the inspector general, and Congress?

**See answer Question #3 above. Also, you may want to contact Dan DuBray, the Chief of Public Affairs at the Bureau of Reclamation at [202-513-0574](tel:202-513-0574) ([ddubray@usbr.gov](mailto:ddubray@usbr.gov)) and Jeffrey Lagda, the communications contact at the EPA OIG at [202-566-2584](tel:202-566-2584) ([lagda.jeffrey@epa.gov](mailto:lagda.jeffrey@epa.gov)).**

If I could have answers to my questions by 5 pm tomorrow (Tuesday), that would be great, though, sooner would be preferred. I understand that many of your staff may be out of the office and if you do not think you can make my deadline, please let me

know.

Thank you,

Ethan

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Ethan Barton

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